



MINUTES

Judicial District and Judicial Resources Study Committee

November 12, 2003

MEMBERS PRESENT:

Senator Donald Redfern, Cochairperson
Senator Keith Kreiman
Sheriff Dennis Anderson
Megan M. Antenucci
Mike Bollard
Curt Campbell
Judge Stephen Clarke
Virginia Cobb
Deborah Dice
Tom Drew
Jay Eaton
Barbara Edmondson
Shirley Faircloth
Joe Holland

Representative Gene Maddox, Cochairperson
Representative Kurt Swaim
Fred James
Julie Johnson
Carmen Loveland
John McClintock
Rhonda Millhollin
Judge John Nahra
Randy Osborn
Carolee Philpott
Judge David Remley
Marty Ryan
Judge Annette Scieszinski
Justice Marsha Ternus

MEETING IN BRIEF

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Organizational staffing provided
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- I. **Procedural Business.**
- II. **Tools or Resources to Consider in Equalizing the Judicial Workload Disparity.**
- III. **Other Options to Address Workload Disparity.**
- IV. **Court Technology.**
- V. **Committee Review of NCSC Study.**
- VI. **Next Steps.**
- VII. **Next Meeting.**
- VIII. **Written Materials on File With the Legislative Services Agency, Legal Services Division.**



Judicial District and Judicial Resources Study Committee

I. Procedural Business.

Call to Order. Cochairperson Maddox called the Judicial District and Judicial Resources Study Committee to order at 10:07 a.m., on Wednesday, November 12, 2003, in Room 116, State Capitol, Des Moines, Iowa.

Minutes. Mr. Eaton, an attorney representing the Iowa State Bar Association, moved that the first bullet point in section VII of the Minutes from the October 7, 2003, Judicial District and Judicial Resources Study Committee Meeting be amended by deleting the words "the Legislature" and adding the word "available" after the word "resources." The motion was seconded and the minutes as amended were adopted by voice vote. The bullet point, as amended, reads as follows: "A list of tools or resources available to help address the judicial workload disparity."

Adjournment. The meeting adjourned at 2:58 p.m.

II. Tools or Resources to Consider in Equalizing the Judicial Workload Disparity.

Mr. Joe McEniry, Legislative Services Agency, Legal Services Division, initiated Committee discussion relating to tools or resources to consider in equalizing the judicial workload disparity between the judicial districts. Mr. McEniry outlined the following five suggestions for discussion:

- Change jurisdiction of magistrates, district associate judges, and associate juvenile court judges.
- Authorize voluntary transfers and transfers by attrition of district associate and associate juvenile court judges.
- Change judgeship formulas that distribute judgeships throughout the state for district court, district associate court, juvenile court, and magistrate court.
- Review the best practices of each district and implement the best practices that can be applied statewide.
- Propose a constitutional amendment authorizing more flexibility to move judicial personnel among the judicial districts.

A. Changing Jurisdiction of Judges.

Committee discussion first focused on how changing the jurisdiction of magistrate, district associate, and associate juvenile judges would impact the workload disparity. Justice Ternus, an Iowa Supreme Court justice representing the Iowa Supreme Court, questioned how this suggestion would in practice help already overworked judges. She noted that she agrees with the concept but that the suggestion does not address the overall goal of equalizing the judicial workload. Judge Clarke, a district court judge representing the Iowa Judges Association, commented that the high volume work of the courts is served well by specialty judges, as having a specialty increases efficiency. He suggested that if this Committee wants to expand the jurisdiction of certain judges, they should look at the advantages of specialty judges. Mr. David Boyd, State Court Administrator,



acknowledged there are benefits to specializing; however, it makes it more difficult to move specialty judges from one area to another when they get burned out.

Mr. Holland, an attorney and past president of the Iowa State Bar Association, suggested that when looking at the differences in the jurisdictions, there may be a need to look at how the judgeships are allocated based upon the seriousness and complexity of the cases. He further commented that there may be a need for more judges at the lower levels in order to preserve the top levels for more serious matters.

Mr. Boyd further noted that current law only allows replacing district judge, district associate judge, and magistrate positions with like positions, and explained that the law does not allow any flexibility in replacing certain judicial positions with other judicial positions, for example, replacing a district judge with three magistrates. However, he stated that when a district associate judge has been appointed in lieu of three magistrates, the district associate position may be reconverted to three magistrate positions upon the vacancy of the district associate judge position. Committee discussion examined the idea of allowing for more flexibility in judicial assignments. Mr. Boyd noted that the chief judge in each judicial district has the authority to be flexible in making judicial assignments within each district based upon workload and need. The Committee discussed whether it would be possible to change the law to expand the chief judge's discretion to allow the appointment of certain judges in case of need. Judge Remley, a chief judge and cochair of the 2002 Iowa Supreme Court Advisory Committee on Judicial Branch Redistricting, responded that this suggestion assumes there is a judge that is available to do the work, and that it does not address the issue of equalizing resources between the judicial districts.

B. Voluntary Transfers of Judges.

Mr. Boyd presented the results of an anonymous survey asking district court judges, district associate judges, and associate juvenile judges whether the judges would be willing to voluntarily transfer judicial districts. The survey was sent to judges in the 1st, 2nd, 3rd, and 8th judicial districts because these districts have more judicial resources than the other districts based upon the statutory formula. The survey specifically asked whether the judge would be very likely to transfer, would consider transferring, or would not be willing to transfer to either the 4th, 5th, 6th, or 7th district. Mr. Boyd stated that the results indicate an aggregate response and have not been analyzed by district in an effort to protect the anonymity of the respondents. Cochairperson Redfern emphasized the anonymous nature of the survey and added that the purpose of the survey was to provide a snapshot of information to the Committee to determine whether this option is worth pursuing.

Mr. Boyd reported that as of this meeting, a total of 35 district judges out of 56 possible had responded to the survey, but that one of the responses was inaccurate and would not be included in this report. He stated that three district judges responded they would be very likely to transfer, 10 district judges responded they would consider transferring, and 21 district judges would not be willing to transfer at all. In district associate court, which includes associate juvenile judges, 28 associate judges out of a possible 37 had responded to the survey. Three district associate judges responded they would very likely transfer, 11 district associate judges would consider transferring, and 14 district associate judges would not be willing to transfer at all.



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Committee discussion focused on the constitutionality of transferring a current sitting judge into another judicial district judgeship through the voluntary transfer process, since the survey indicated some of the current sitting judges are willing to transfer judicial districts. Mr. Boyd indicated there are some constitutional concerns about this statutory provision in regard to district judges because the appointment process for district judges is based in the constitution whereas district associate court judges are created by statute which makes a voluntary transfer less of a constitutional concern. Mr. Boyd indicated the constitutionality concerns for district court judges center around the fact that the appointment process, including the creation of judicial nominating commissions, is based in the constitution. The issue of permanent voluntary transfers of district court judges becomes problematic when a district judge from one judicial election district who has been nominated by a judicial nominating commission comprised of both laypersons and lawyers from the judge's home judicial election district transfers out of the judge's home judicial election district to another judicial election district where the judge has not been nominated.

C. Change Judgeship Formulas.

Mr. Boyd stated that the statutory judgeship formulas for the allocation of district judges, district associate judges, and magistrates have not been fully funded by the Legislature in 26 years. Cochairperson Maddox questioned how additional judgeships are requested by the Judicial Branch. Mr. Boyd responded that the funding proposals are a part of the Supreme Court's budget process, taking into account the needs of each judicial district. Committee discussion focused on what priority the Supreme Court has placed on budgeting for the judicial districts that have the least amount of judgeships based upon the formula. Justice Ternus reiterated that the Supreme Court includes judgeships in the Judicial Branch budget proposal based upon need, but that the appropriation process does not always allow for positions to be filled based solely upon need.

D. Best Practices.

Senator Kreiman commented he is not comfortable with the idea of shifting judicial resources between the districts before first examining whether best practices are being utilized in each judicial district. He stated he is not convinced by any of the information presented that best practices have been attempted. Justice Ternus agreed that the issue of best practices is important; however, an examination of best practices, which is difficult to measure as a threshold matter, does not get at the judicial workload disparity problem that she believes has been documented by both the statutory formula and the National Center for State Courts (NCSC) weighted caseload formula. Justice Ternus also commented that every district thinks they have implemented best practices. She stated she has difficulty with the idea that those districts that need more judges may not be utilizing best practices and therefore are not as efficient as those districts that do not need more judges. She stated that every district has different efficiencies, and those that are understaffed are not necessarily the least efficient. Mr. John Goerd, judicial planner for the Judicial Branch and a member of the audience, stated that best practices do not affect the number of case filings in a district.

E. Constitutional Amendment.

In response to Committee questions related to the issue of the constitutionality of voluntary transfers of sitting judges, Mr. McEniry responded that one option is to amend the Constitution to



authorize voluntary transfers of judgeships. He stated that a constitutional amendment must pass two successive legislative sessions of the Iowa General Assembly, and be ratified by a majority vote of the people. The Committee discussed the need for further study regarding the advantages and disadvantages of amending the law versus amending the Constitution.

III. Other Options to Address Workload Disparity.

The Committee also discussed alternative responses involving the best use of current judicial resources. Judge Nahra stated that some states like Arizona have experimented with early disposition courts in criminal cases where defendants involved in nonviolent, nonpersonal crimes do not serve jail time either after arrest or upon pleading guilty. Judge Scieszinski, President-elect of the Iowa Judges Association, commented about an alternative practice in New York where highly trained and experienced prosecutors and defense counsel handle the more serious criminal cases as another example of an efficient use of judicial resources. Ms. Antennuci queried whether the focus should be on the efficiencies of the day-to-day workload of the courts.

The Committee revisited the issue of whether redistricting would make the Judicial Branch more efficient. Justice Ternus commented that the goal of redistricting is not to save money, but to place judges in judicial districts where there is the greatest need.

IV. Court Technology.

Mr. Boyd presented information related to the use and availability of technology to improve communication efforts and its effect on the allocation of Judicial Branch resources. He stated that the Judicial Branch is in the process of implementing an electronic data management system (EDMS) that would digitize all court records, provide electronic filing, and provide for electronic access to all court records. He also stated that the Court would like to have access to the Iowa Communications Network (ICN) in all courthouses.

Mr. Eaton questioned what effect the use of electronic filing would have on alleviating judicial resource problems. Mr. Boyd responded that, as a general matter, technology in the court system has never led to the direct elimination of positions, but has slowed down the growth of the need for additional staff. Judge Nahra commented that in his county, judicial staff spend a great deal of time filing, retrieving, and storing numerous courthouse documents, and that EDMS would substantially reduce this workload. Mr. Holland stated his concern that the more the courts move towards digitizing the day-to-day operations, the more the courts risk disenfranchising persons who cannot afford the resource.

V. Committee Review of NCSC Study.

The Committee discussed whether the National Center for State Courts (NCSC) judicial workload study issued in June of 2002 at the request of the Iowa State Court Administrator's Office was an accurate predictor of workload disparity among the districts. The purpose of this study was to assess the judicial workloads among the judicial districts utilizing a weighted caseload formula. Mr. Drew questioned whether the practice of sidebars, or off-the-record proceedings, would have skewed the statistics reported in the study. He queried whether this in effect is a practice issue as much as a workload issue. Cochairperson Redfern and Representative Swaim inquired how the



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judges on the Committee felt about the NCSC study. Judge Remley responded that the results of the study were consistent with his perceptions in his judicial district. The discussion further noted that the study failed to take into account the differences between district associate judges, associate juvenile judges, and magistrates. Mr. Goerdts responded that the NCSC study struggled with how to present the data and noted that the case weight formula provided a baseline approach for determining judicial workload allocations. He said the national center was not ignorant of the nuances between judicial officers and that the raw data presented many complexities. Justice Ternus commented that both the statutory formula and the NCSC study indicate there is a judicial workload disparity among the judicial districts and she would like the Committee to agree there is a disparity and move forward to determine how to address the disparity.

VI. Next Steps.

The Committee discussed the need to examine how other states manage their judicial workload disparities. The Committee also requested more detailed information regarding the constitutionality of voluntary transfers of district court and district associate court judges. The Committee will also decide whether the Committee should meet annually to monitor and evaluate how Judicial Branch resources are being allocated.

VII. Next Meeting.

The third meeting of the Study Committee is scheduled for Wednesday, December 17, 2003, at 10 a.m. in Room 22 of the State Capitol.

VIII. Written Materials on File With the Legislative Services Agency, Legal Services Division.

A list of tools to consider which could be used to equalize judicial workloads from Joe McEniry, Legislative Services Agency, Legal Services Division.

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